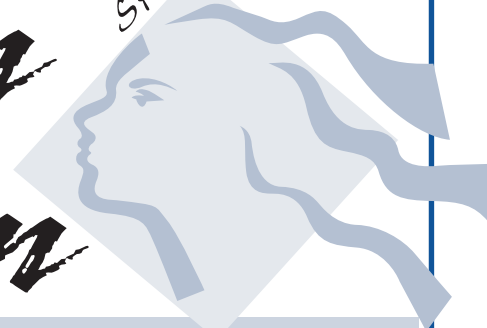


Michigan Women

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Report of the Michigan Civil Rights Commission on the Impact of Proposal 2

On March 8, 2007, the Michigan Civil Rights Commission (MCRC) adopted and issued its report on the impact of Proposal 2. By Executive Directive 2006-07, Governor Jennifer M. Granholm directed the MCRC to investigate the impact of the adoption of Proposal 06-02, issue a report detailing its findings, and offer specific recommendations. The MCRC carried out this task of reviewing Proposal 2 and its application to state government through

the Michigan Department of Civil Rights ("MDCR"). The report is the result of three months of investigation, including in-depth meetings with seventeen (17) state departments, six (6) other state agencies, contact with the Michigan Council for University Presidents, a detailed review of state statutes which mention key terms, and a review of best practices in other states. The Michigan Departments of Attorney General and State declined to be interviewed.

The report does not constitute legal advice. It is the Michigan Civil Rights Commission's policy response to the Governor pursuant to Executive Directive No. 2006-07. Final decisions on the application of Proposal 06-02 must be done on a case-by-case basis in consultation with legal counsel.

The commission made the following findings:

1. MCRC believes, based on its reading of the amendment, Proposal 2 does

not eliminate all affirmative action and affirmative action programs but only those that grant preferential treatment based on race, sex, color, ethnicity, and national origin in the operation of public employment, public education, and public contracting.

2. Proposal 2 does not end equal opportunity or the critical pursuit of diversity and

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inclusion in the State of Michigan. Neither does it mean that the terms “race” or “sex” are banished from the official state vocabulary, as it relates to the state’s decision-making process. This latter point was in fact acknowledged by proponents of Proposal 2 during the campaign to place the initiative on the Michigan ballot. The Michigan Civil Rights Initiative (“MCRI”), the key proponent organization of Proposal 2, wrote the following on its webpage made available to Michigan voters during the campaign, on a page titled “Big Myths about MCRI,”

“(1) Myth: MCRI ‘ends all affirmative action.’

(2) Fact: MCRI makes it unconstitutional to pick winners and losers based **solely** on race and sex.” (emphasis added)

This statement by MCRI, in MCRC’s view, indicates that race and sex may still be used under certain circumstances. If this were not the case, Proposal 2 could, and still may be, struck down by the courts as placing an unconstitutional burden on protected groups seeking beneficial legislation [*Hunter v. Erickson*, 393 U.S. 385 (1969)]. There is legal precedent from the U.S. Supreme Court that race and sex may be used as one of a number of factors in the state’s decision-making process, if the objective serves a compelling state interest, such as diversity in higher education, and is narrowly tailored to achieve the objective sought [*Grutter v. Bollinger*, 539 U.S. 306 (2003)]. MCRC does not believe that Proposal 2 has overturned the referenced U.S. Supreme Court precedent.

3. The ballot language for Proposal 2 stated that it would ban affirmative action programs that gave preferential treatment to groups or individuals based on race, sex, color, ethnicity, or national origin. The amendment is titled “Affirmative Action,” however, the text of the new amendment does not reference the terms “affirmative action” or “affirmative action plans.” Many affirmative action plans or programs do not contain preferences and would therefore not be in violation of Proposal 2.
4. The term “preferential treatment” is new to Michigan constitutional law, unlike the term “discrimination” which is well-settled by Michigan courts. “Preferential treatment” will be subject to continuing judicial review.
5. MDCR met with seventeen state departments and six other state agencies. As a result, it has been determined that none of these state departments or agencies, with the exception of Michigan Department of Transportation (MDOT) and Michigan Department of Environmental Quality (MDEQ) uses an affirmative action program or plan that grants “preferential treatment” in its employment or contracting decisions. Both MDOT and MDEQ have federal contracts that require the use of affirmative action programs.
6. MDCR reviewed 45 state programs relating to the operation of public employment, public education, and public contracting that may be affected by the adoption of Proposal 2. As a result of this review, we believe eight (8), or 18% of the programs, may be in jeopardy. The programs are: Collective Bargaining Agreements, Commission on Spanish Speaking Affairs, Foster Care, Higher Education Programs, Minority-Owned and Women-Owned Businesses, Minority Student Grants, Single Business Tax Credit, and Special Needs Adoption. Some of these programs may be preserved by eliminating reference to race, sex, color, ethnicity, and national origin and expanding the program’s scope or eligibility criteria using race/gender-neutral terms.
7. Due to time limitations, we were unable to meet with state institutions of higher learning or public school districts, nor have we conducted in-depth review of their policies, procedures, or programs.
8. Proposal 2, by its own terms, has limited application. It only applies to government institutions. It has no application in the private sector.
9. As expressly articulated in the language of the amendment, Proposal 2 only applies to government institutions in the areas of contracts, employment, and education. It does not apply to the general operations of government.
10. Under President Lyndon B. Johnson’s September 28, 1965 Executive Order No. 11246, the U.S. government has mandated diversity in employment for federal contractors, including state agencies, doing contractual work for a federal agency, if that contractor or subcontractor receives over fifty thousand dollars (\$50,000) in federal funds for contractual work, and has over fifty(50) employees. This federal diversity requirement is not nullified or invalidated by Proposal 2.
11. By its own terms, Proposal 2 does not apply to any government institution that receives any federal funding now, or which plans to establish a program that would make it eligible to receive federal funding in the future, if the federal appropriation has affirmative action requirements attached to it.
12. Proposal 2 does not apply to bona fide occupational qualifications (“BFOQ”) based on sex.
13. Any court judgment, or judicial consent decree in force before December 23, 2006, is not affected by Proposal 2.
14. State agencies are permitted and in some instances are required, to keep statistics on race and sex.
15. State agencies may conduct outreach to groups based on race, sex, color, ethnicity, or national origin

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JET PROGRAM EXPANDS

Director of the Michigan Department of Human Services (DHS) Marianne Udow and Michigan Department of Labor and Economic Growth (DLEG) Deputy Director Andy Levin showcased the expanded Jobs, Education and Training (JET) program in Genesee County in January. JET is a welfare reform program that helps families secure long-term employment and become self-sufficient, and helps Michigan meet new federal work participation requirements.

The program is a cooperative venture between the departments of Human Services and Labor and Economic Growth, Michigan Works! Agencies and Michigan Rehabilitation Services. Beginning in September 2004, a broad-based work group developed a new approach to creating permanent work force status for DHS clients. JET grew out of this work group. Pilot programs in

Kent, Oakland, Sanilac and Wayne counties were included in the fiscal year 2006 DHS budget. Preliminary results in the four pilot locations show that DHS caseloads are holding steady or slightly declining. In areas that did not offer JET, there was a 5 percent increase in caseloads.

JET expanded to serve 19 counties in 2007. The expanded JET program will cost approximately \$40 million to implement, but is expected to result in \$56 million in grant savings. A net savings of \$16 million is forecast for fiscal year 2007.

JET is a "win-win win" for Michigan. For welfare recipients, it's an opportunity to qualify for - and keep - good paying jobs. For Michigan's businesses, JET supports and expands the skilled workforce that businesses need today and for the future. For the state, it means more Michigan residents gain their independence through having good jobs, leaving

the welfare rolls and contributing once again to the tax base.

The JET program:

- Uses a thorough up-front assessment to develop a Family Self-Sufficiency Plan to tailor supports and services to the individual circumstances of recipient and family.
- Expands educational and training opportunities so clients gain the skills they need to get a good paying job in a high-demand field.
- Focuses career and technical training opportunities on jobs available in the Michigan economy, such as health care and construction.
- Provides supportive services when clients face serious barriers to work, with the goal of reducing and removing those barriers so clients can participate in work or work preparation.
- Provides advocacy and support for those clients applying for Supplemental Security Income.
- Extends post-employment support from 90 days to 180 days to help clients retain jobs and prepare a plan for advancement.

For more information about JET go to www.michigan.gov/jet

Cervical Cancer Report

On January 17, 2007, Lt. Governor John D. Cherry, Jr., state health officials, and members of Governor Granholm's task force on cervical cancer announced new recommendations to reduce cervical cancer in Michigan. The recommendations - contained in the Governor's Task Force on Cervical Cancer Report - outline key strategies the state of Michigan, health care providers, cancer prevention advocacy groups, and others will use to improve public awareness and reduce cervical cancer rates statewide.

In creating the Cervical Cancer Task Force (CCTF), Governor Granholm charged them with identifying ways to increase public awareness and reduce cervical cancer incidence and mortality for Michigan women through policies that promote primary and secondary prevention.

Recommendations of the task force include:

- The Michigan Department of Community Health (MDCH) should develop strategies in concert with the Michigan Cancer Consortium's Cervical Cancer Advisory Committee to reduce health disparities related to cervical cancer.

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so long as that outreach is not exclusive to groups based on race, sex, color, ethnicity, or national origin.

16. If the preference is based on disability Proposal 2 does not apply.
17. Proposal 2 does not apply to religious organizations or programs.

In addition, in the report is a test that can be used as a preliminary tool to analyze whether or not a program violates Proposal 2. For a complete copy of the report, please go to www.michigan.gov/mdcr.

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Cervical Cancer Report

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- MDCH should develop a plan within the state's Medicaid program to increase pap testing rates among enrollees.

- Michigan should require that all publicly funded programs adopt national recommendations for the HPV vaccine.

- Michigan should take steps to increase awareness of the risks associated with cervical cancer.

In response to the call for increased awareness, Michigan has recognized January as Cervical Cancer Awareness Month.

Cervical cancer is a disease that strikes hundreds of Michigan women each year. The primary cause of cervical cancer is the Human Papillomavirus (HPV), the most common sexually transmitted virus in the United States. It can be detected even before the cancer develops through a Pap test, which is an important part of a woman's routine health care.

Regular testing is critical because most cervical cancers are slow-growing and develop over a long period of time. During this time, abnormal cervical tissue can be detected easily by a Pap test and then removed by a health care provider before the abnormal tissue develops into cancer. Early detection and treatment of cervical abnormalities improve chances that the treatment will be successful.

Women ages 40 to 64 who are uninsured or underinsured and whose incomes are at or below 250 percent of the federal poverty level may be eligible to obtain free Pap tests through the Michigan Breast and Cervical Cancer Control Program (BCCCP). For more information on the BCCCP or to locate the nearest BCCCP screening site, call 1-800-922-6266 or visit www.michigancancer.org/bcccp.

In June 2006, the FDA approved a vaccine that prevents two strains of HPV that are responsible for 70 percent of all cervical cancers. This vaccine is recommended for females age 9 to 26. For more information, visit www.michigan.gov, click on "Health" then "Healthy Citizens" then "Family" then "Human Papillomavirus (HPV) and HPV Vaccine."

Lt. Governor Cherry also announced the launch of an educational initiative sponsored by the National Lieutenant Governors Association (NLGA). The NLGA has selected cervical cancer awareness as their public issue campaign for 2007. The program, "Ending Cervical Cancer in Our Lifetime," will make thousands of free educational packets available to help Michigan citizens better understand the risks associated with cervical cancer. The educational packets - which include an information brochure from the NLGA, fact sheets

about cervical cancer, and a beading kit to construct awareness bracelets - are available by calling 1-800-353-8227 or by visiting www.healthymichigan.com

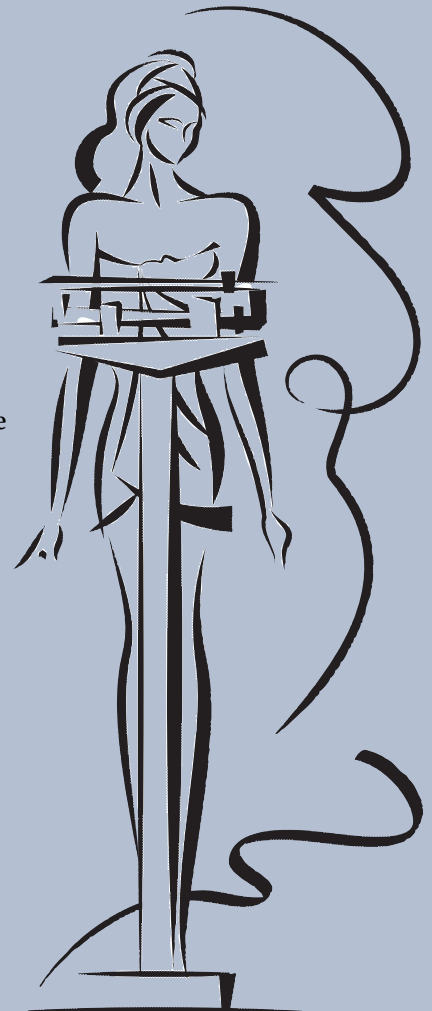
and clicking on the cancer icon. Because Michigan is limited to 8,000 packets, there is a limit of 10 packets per request.

Women and Osteoporosis

Did you know that women make up 68% of osteoporosis cases? Did you know that osteoporosis caused over 4,100 bone fractures in Michigan in 2005, costing \$43 million? Did you know that after a hip fracture 20% of people die within one year? Did you know that 25% become disabled because of the fracture?

After women experience menopause, the body removes more bone than it replaces. This may lead to osteoporosis, a medical condition characterized by weak bones and increased risk of fracture. To prevent such complications, postmenopausal women should have a bone density screening to determine the condition of their bones. The key to building and maintaining bone mass at any age is to continue to consume the recommended amounts of calcium and vitamin D, and continue regular weight bearing exercise. For more information, see www.osteoporosis.org.

The Michigan Women's Commission is working to ensure healthy bones for Michigan women by bringing awareness to the issues of osteoporosis. Please join us in ensuring healthy bones for Michigan women.



Michigan Women's Commission News

The Michigan Women's Commission (MWC) is pleased to welcome new Commissioner Mary Alice Williams from Grand Rapids. She is replacing Commissioner Maria Ladas Hoopes who resigned in December. In addition, we welcome two new liaisons, Jackie Shinn from the Michigan Department of Transportation and Robin Rosenbaum from the Michigan Department of Agriculture who replaced Bridget Beckman. We also accepted the resignation of Sgt. Michele Hernandez from the Michigan State Police who is accepting a new position. We welcome our new members and thank the past members for their service!

At the meeting held on March 14, the Michigan Women's Commission supported legislation to provide contraceptive equity, to allow second-parent adoption, and to require the HPV vaccine.

The MWC also adopted the following resolution:

WHEREAS, the Michigan Women's Commission is charged under Public Act 1 of 1968 with directing attention to critical problems confronting women as wives, mothers, homemakers and workers; and

WHEREAS, the state of Michigan's economic situation directly impacts the status of women in this state, most especially in the areas of education, social services, employment, health and family relations; and

WHEREAS, the Michigan Women's Commission is further persuaded that Michigan's economic strength and vitality is key to affording women the opportunity to develop their skills, continue their education, participate fully in public and private employment and care for their families; now, therefore be it

RESOLVED that, given the state of Michigan's current economic and fiscal situation, the Michigan Women's Commission endorses proposals that:

- enhance the state's revenue base in line with the changing nature of the Michigan and national economy;
- pursue needed reforms, efficiencies, consolidations and changes to the structure of state and local program delivery to make it more effective and efficient;
- provide a stable and strong base of funding necessary for investments in Michigan's people that can make them and the state competitive in today's economy.

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CALENDAR

April is Sexual Assault Awareness Month (www.ncadv.org)

April, 2007, Statewide, MI Small Business & Technology Development Centers Low-cost training on starting a business, financing, marketing plan, taxes, legal issues, etc. See training events at <http://www.gvsu.edu/misbtde/>

April 24, Equal Pay Day This indicates how far into a year a woman must work to earn as much as a man earned in the previous year. <http://www.pay-equity.org/day.html> and <http://www.womenemployed.org>

May is both National Osteoporosis Awareness and Prevention Month See www.nof.org and <http://www.michiganosteoporosisconnection.org/> and **National Teenage Pregnancy Prevention Awareness Month** at www.teenpregnancy.org

May 2, National Day to Prevent Teen Pregnancy, See (www.teenpregnancy.org)

May 13, Mother's Day

May 19 -25, Michigan Week Celebrate Michigan's rich heritage and unique features. E-mail michiganweek@michigan.gov or Call (517) 373-5578 for more information.

June, 2007, Statewide, MI Small Business & Technology Development Center Low-cost training on starting a business, financing, marketing plan, taxes, legal issues, etc. See training events at <http://www.gvsu.edu/misbtde/>

June 13, 10:00 a.m., Michigan Women's Commission Meeting Lansing, 110 W. Michigan Ave, suite 800. Call (517) 241-2396 for more information.

June 13, Lansing, Michigan Women's Hall of Fame and Historical Museum Annual Picnic See www.michiganwomenshalloffame.org

July 4, Mackinac Island, Fort Mackinac 1880s Independence Day Celebration complete with music, Victorian children's games, picnic and fireworks. See www.mackinacparks.com

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